

Exhibit 11

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1 today -- regarding the hearsay portion of their objection, but
2 we had a litany of exceptions to the hearsay rule, and, also,
3 statements to the fact that our experts, or anyone who's opined
4 to --

5 THE COURT: That's not today's issue.

6 MR. REED: Yeah, we'll be here, they'll be here.

7 THE COURT: That's not today's issue.

8 All right. Mr. Wishnew, Mr. Reed points to what is
9 tabbed as Exhibit 3, behind tab 4, a copy of the state court
10 complaint --

11 MR. WISHNEW: Um-hum.

12 THE COURT: -- filed on May 19th, 2008, and he points
13 to paragraph 4 in the complaint that reads, "On or before the
14 date within complaint was drafted, the plaintiff herein became
15 the owner of the note and mortgage --

16 MR. WISHNEW: Um-hum.

17 THE COURT: -- being foreclosed herein".

18 MR. WISHNEW: Um-hum.

19 THE COURT: The plaintiff is GMAC Mortgage, LLC.

20 MR. WISHNEW: Correct, Your Honor. So --

21 THE COURT: Doesn't that create -- you say GMACM never
22 owned the note. Why doesn't this allegation in the state court
23 pleading create, at a minimum, a disputed issue of fact as to
24 whether GMACM --

25 MR. WISHNEW: Because I think if you take a closer

EXHIBIT

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1 look at the underlying documents, the statement is partially
2 correct in --

3 THE COURT: Partially correct?

4 MR. WISHNEW: Well, I would say this, Your Honor. In
5 order for us to have standing to commence the action in New
6 Jersey, we would have had to have had the mortgage assigned to
7 us, which we did. And if you look, as Mr. Reed points out, to
8 page 84 of the exhibits, which is titled "Assignment of
9 Mortgage" -- this is at page 84 of 103 at docket 7017-6 -- it
10 specifically says, Your Honor, "and the said assignor" -- and
11 the assignor in this document is identified as MERS or Mortgage
12 Electronic Registration Systems, Inc., as nominee for Metro
13 City Mortgage, LLC -- "constitutes and appoints the
14 assignee" -- the assignee in this case is GMAC Mortgage, LLC --
15 "as the assignor's true and lawful attorney, irrevocable in law
16 or in equity, in the assignor's name, place and stead, but at
17 assignee's cost and expense".

18 THE COURT: Okay. So they were assigned the mortgage.
19 But paragraph 4 alleges that they were the owner of the note.

20 MR. WISHNEW: I recognize that, Your Honor, and that
21 should not have said the owner of the note.

22 THE COURT: Okay.

23 MR. WISHNEW: It should have said the holder of the
24 note. And if you were to look to Ms. Delehey's supplemental
25 declaration in support of the reply, at docket 7228-1, page 37

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1 of 37, nowhere, on the endorsements to the note, is GMAC
2 Mortgage, LLC.

3 THE COURT: Okay.

4 MR. WISHNEW: So we never --

5 THE COURT: It's a disputed issue of fact. So I'm
6 going to overrule the objection to the breach of contract
7 claim. You may well prevail.

8 MR. WISHNEW: Um-hum.

9 THE COURT: It's too bad somebody alleged in the
10 complaint that you owned the note.

11 MR. WISHNEW: Agreed, Your Honor.

12 MR. REED: Your Honor, may --

13 THE COURT: No, just a second, Mr. Reed.

14 MR. REED: Sure. Sure.

15 THE COURT: Where in the proof of claim is an unjust
16 enrichment claim?

17 MR. WISHNEW: It might be in the certification to the
18 claim, Your Honor. Just give me one minute; I'll double check.

19 MR. REED: It's on the face as well, Your Honor.

20 THE COURT: Where?

21 MR. REED: No, I don't have that -- I don't have the
22 original document.

23 THE COURT: Mr. Reed?

24 MR. WISHNEW: I just have the supplemental.

25 THE COURT: Mr. Wishnew will --